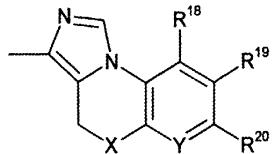


Serial No. 09/996,641  
Filed November 28, 2001



X is O, Y is CH and R<sup>18</sup>-R<sup>20</sup> are H.

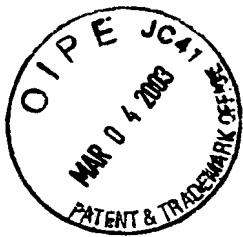
At page 4 of the Office Action, it is stated that upon applicants' election of a single species "a generic concept, inclusive of the elected species, will be identified by the Examiner for examination." Applicants submit that it is improper for the Examiner sua sponte to identify what is the claimed invention, such as by creating a "generic concept" other than the invention presented by applicants in their claims. Such procedure is violative of the applicable law (see, e.g., *In re Weber*, 198 USPQ 328, 331-332 (CCPA 1978)) and contrary to the Patent Office's own procedures as outlined in MPEP 809.02, *et seq.* Applicants request compliance with MPEP 809.02 (c) such that if applicants' elected species is found to be allowable, then the Examiner should issue a complete action on the merits of all claims presented by applicants that read on the elected species.

Respectfully submitted,

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PATENT APPLICATION MAR 06 2003

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application

Vincent Mutel et al.

Group: 1646

Serial No. 09/996,641, filed November 28, 2001

Saeed, Kamala

For: PHENYLETHYNYL AND STYRYL DERIVATIVES OF  
IMIDAZOLE AND FUSED RING HETEROCYCLES

**RESPONSE TO RESTRICTION REQUIREMENT**

Nutley, New Jersey 07110  
February 26, 2002

Commissioner for Patents  
Washington, D.C. 20231

Sir:

This is in response to the Office Action dated February 12, 2003, wherein the Patent Office requires election of one of the following groups for continued substantive examination:

Group I Claims 10, 11 and 13-20, drawn to compounds and pharmaceutical compositions of compounds of Formula I-A.

Group II Claims 10, 12, 21, and 24-26, drawn to compounds and pharmaceutical compositions of compounds of Formula I-B.

Group III Claims 10, 27, 30 and 31, drawn to compounds and pharmaceutical compositions of compounds of Formula I-B-2.

Group IV Claims 1-9, 22, 23, 28 and 29, directed to methods.

Applicants elect, with traverse, Group I, compounds of Formula I-A, for initial substantive examination. Further in response to the requirement for restriction, applicants elect the compound of Example 25, page 35, as the species with which to initiate examination. In Example 25, A is  $-C\equiv C-$ ,  $R^1-R^5$  are H, B is



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MAR 06 2003

PTO/SB/21 (6-98)

Approved for use through 09/30/2003  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCEPlease type a plus sign (+) inside this box → 

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## TRANSMITTAL FORM

*(to be used for all correspondence after initial filing)*

		Application Number	09/995,641
		Filing Date	November 28, 2001
		First Named Inventor	Vineent Mutel
		Group Art Unit	1626
		Examiner Name	Kamala Saeed
Total Number of Pages in This Submission	3	Confirmation Number	5346

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers <i>(for an Application)</i>	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group <i>(Appeal Notice, Brief, Reply Brief)</i>
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Additional Enclosure(s) <i>(please identify below):</i>
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Small Entity Statement	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Patricia S. Rocha-Tramaloni
Signature	
Date	February 26, 2003

### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail on the date shown below in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231:

Typed or printed name	Patricia S. Rocha-Tramaloni (Reg. No. 31,054)		
Signature		Date	February 26, 2003

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.